

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF LOUISVILLE GAS AND	)	
ELECTRIC COMPANY FOR AN ORDER	)	CASE NO.
AUTHORIZING THE ISSUANCE OF	)	2014-00089
SECURITIES AND THE ASSUMPTION OF	)	
OBLIGATIONS	)	

ORDER

On March 20, 2014, Louisville Gas and Electric Company (“LG&E”) electronically filed an Application requesting that the Commission: (1) authorize LG&E to incur debt in the form of First Mortgage Bonds in a principal amount not to exceed \$550,000,000; and (2) amend and extend LG&E’s existing authority to allow for replacing or extending the term of LG&E’s existing multi-year revolving line of credit through December 31, 2019.<sup>1</sup> LG&E has also filed a petition requesting that: (1) certain information contained in three contracts attached to its Application as Exhibit 3 be afforded confidential treatment; and (2) a deviation from the requirement to file a paper copy of the three contracts attached to its Application as Exhibit 3.

CONFIDENTIALITY

With respect to confidentiality, LG&E’s petition cites 807 KAR 5:001, Section 13, KRS 61.878(1)(c), and KRS 61.878(1)(m) to support its request that certain information contained in three contracts attached to its Application as Exhibit 3 be afforded confidential treatment and not be placed in the public record subject to public inspection for an indefinite period of time. LG&E seeks confidentiality for prices, concessions,

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<sup>1</sup> Application at p. 1.

terms, and conditions that it has been able to negotiate in the three contracts, which are with Zachry Industrial, Inc., PCL Industrial Construction Co., and Overland Contractors Inc. (collectively the "Contracts").<sup>2</sup> LG&E states that making these provisions of the Contracts public will allow its competitors, who also seek to negotiate the best construction contracts possible, to take advantage of the Contracts' favorable terms and conditions that LG&E has been able to negotiate.

Having carefully considered the petition and the materials at issue, the Commission finds that the information for which LG&E seeks confidential treatment, except for the Appendices discussed below, meets the criteria for confidential treatment and is exempted from public disclosure pursuant to 807 KAR 5:001, Section 13, KRS 621.878(1)(c), and KRS 61.878(1)(m). The Commission further finds that the material for which LG&E seeks confidential treatment should not be placed in the public record or made available for public inspection for an indefinite period of time.

#### DEVIATIONS

LG&E also requests two deviations, pursuant to 807 KAR 5:001, Section 22,<sup>3</sup> from the filing requirements in Commission regulation 807 KAR 5:001. The first deviation is from 807 KAR 5:001, Section 8(3), which requires an applicant in an electronically filed case, as is this case, to file one copy in paper medium of all papers filed electronically. LG&E seeks to be relieved of the obligation to file one paper copy of the Contracts due to their voluminous nature, totaling approximately 4,000 pages.

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<sup>2</sup> Petition of Louisville Gas and Electric Company Company for Confidential Protection Pursuant to 807 KAR 5:001, Section 13, for Deviation from Commission Rules and for Incorporation by Reference, pp. 1-2 (filed Mar. 20, 2014).

<sup>3</sup> 807 KAR 5:001, Section 22 allows the Commission to "[i]n special cases, for good cause shown ... permit deviation from these rules [of procedure]."

LG&E has filed on a compact disc ("CD") the unredacted versions of the Contracts, except for the Appendices as noted below. Based on our decision herein to grant confidentiality to the Contracts, except for the Appendices, we find it reasonable to relieve LG&E of the requirement to file one paper copy of the unredacted Contracts, since they will not be accessible for public view. However, even though this is an electronically filed case, the Commission's official record consists of the paper filed pages. Since there are portions of the Contracts that are not confidential, one paper copy of the redacted versions of the Contracts must be filed to ensure that the public version of the record is complete.

The second request for a deviation is from the confidentiality regulation, 807 KAR 5:001, Section 13(2)(a)(3), which requires one unredacted copy of the material for which confidentiality is requested. Although LG&E has provided a CD containing the Contracts in an unredacted form, LG&E has omitted Appendices A, S, and T to each of those Contracts. LG&E states that these exhibits "contain extensive technical information" for which confidential treatment is being requested, and it avers that the remainder of these exhibits, "if publically disclosed, would largely be nonsensical and would not aid in the consideration of LG&E's Application."<sup>4</sup> The Commission finds that it cannot make any definitive decision on whether the material contained in these Appendices should be granted confidential treatment without the ability to review the Appendices. Thus, we will defer a decision on this portion of LG&E's petition until such time as the Appendices are actually submitted in this case. Since LG&E is seeking confidentiality for the Appendices, we will allow LG&E to file the Appendices on a CD.

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<sup>4</sup> Petition of Kentucky Utilities Company for Confidential Protection Pursuant to 807 KAR 5:001, Section 13, for Deviation from Commission Rules and for Incorporation, see Fn. 3, p. 3 (filed Mar. 20, 2014).

IT IS THEREFORE ORDERED that:

1. LG&E's motion for confidential protection is hereby granted in part.
2. The information for which LG&E seeks confidential treatment, excepting Appendices A, S, and T, shall not be placed in the public record or made available for public inspection for an indefinite period of time or until further Order of this Commission.
3. Use of the materials in question in any Commission proceeding shall be in compliance with 807 KAR 5:001, Section 13(9).
4. LG&E shall inform the Commission if the information in question becomes publicly available or no longer qualifies for confidential treatment.
5. If a non-party to this proceeding requests to inspect materials granted confidential treatment by this Order and the period during which the materials have been granted confidential treatment has not run, then LG&E shall have 20 days from receipt of written notice of the request to demonstrate that the materials still fall within the exclusions from disclosure requirements established in KRS 61.878. If LG&E is unable to make such demonstration, the requested materials shall be made available for inspection. Otherwise, the Commission shall deny the request for inspection.
6. The Commission shall not make the requested materials available for inspection for 20 days following an Order finding the materials no longer qualify for confidential treatment in order to allow LG&E to seek a remedy afforded by law.
7. LG&E's request for a deviation from confidentially filing the material contained in Appendices A, S, and T is denied.

8. LG&E's request for confidential protection of the material contained in Appendices A, S, and T shall be held in abeyance pending the confidential filing of Appendices A, S, and T.

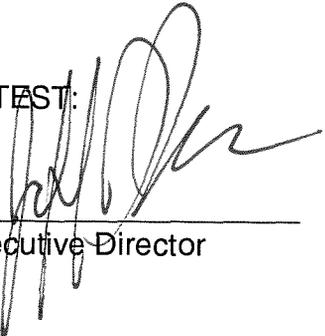
9. LG&E's request for a deviation from 807 KAR 5:001, Section 8, for authorization to file copies of its Contracts on a CD is denied in part and granted in part. LG&E shall file a single original redacted, paper copy of its Contracts and shall confidentially file a complete copy of its Contracts on a CD, to include Appendices A, S, and T.

10. The Application tendered by LG&E on March 20, 2014, shall not be considered filed until LG&E files a redacted paper copy of its Contracts and a complete CD containing an unredacted, highlighted copy of its Contracts in their entirety, including unredacted copies of the material contained within Appendices A, S, and T.

By the Commission

ENTERED
APR 14 2014
KENTUCKY PUBLIC SERVICE COMMISSION

ATTEST:

  
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